

PHOENIX RISING COMPANY,)	AGBCA Nos. 2006-135-1,
)	2006-136-1,
Claimant)	2006-137-1
)	
Representing the Claimant:)	
)	
Michael J. Beattie, Esquire)	
Phoenix Rising Company)	
9502B Lee Highway)	
Fairfax, Virginia 22031)	
)	
Representing the Government:)	
)	
Elin M. Dugan, Esquire)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
Room 3311, South Building)	
1400 Independence Avenue, SW)	
Washington, D.C. 20250)	

DECISION OF THE BOARD OF CONTRACT APPEALS

May 2, 2006

Before POLLACK, VERGILIO, and STEEL¹, Administrative Judges.

Opinion for the Board by Administrative Judge VERGILIO.

On February 22, 2006, the Board received from Phoenix Rising Company (claimant), said to be the successor to Beattie & Associates, both of Fairfax, Virginia, what is captioned a notice of appeal. The notice specifies that the company “appeals the two decisions to to [sic] ignore claims for payment for services rendered and one decision to suspend the company from future contracts with the U.S.D.A. Office of Civil Rights.” The notice identifies no contract number, claim, or written determination. It does state that the company submitted an invoice for \$3,800 in February 2005.

¹ Administrative Judge Steel, of the Department of Interior Board of Contract Appeals, sits by designation of the Secretary of the Department of Agriculture.

The Board assigned this matter a docket number, 2006-135-1. Further, it states that the company submitted an invoice for \$5,100 in November 2004. The Board assigned a docket number, 2006-136-1. Finally, it states that in February 2005, a named individual ordered a suspension of Beattie & Associates and any successor companies from any United States contracts. The Board assigned a docket number, 2006-137-1. The respondent is the U. S. Department of Agriculture.

The submission provides no basis for the Board to conclude that the Board has jurisdiction (under the Contract Disputes Act, 41 U.S.C. §§ 601-613, as amended) or the authority (as a debarment or suspension matter, 7 CFR 24.4) to resolve the matters. The Board issued an order directing the claimant to identify the jurisdictional authority invoked, as well as to provide an invoice, claim, contract number, and any other material that might assist in focusing the issue in each case. The claimant failed to submit the materials after the initial order and an order issued during a telephone conference. By order dated March 22, 2006, the Board directed the claimant to “provide the information requested or indicate in writing that it does not seek to pursue any given matter at this Board. The contractor should be prepared to discuss orally why these matters should not be dismissed pursuant to Rule 31.” The Board received a letter of invoice from the claimant, but no basis for a case to remain before the Board. The Board issued another order, stating in pertinent part:

The failures of the claimant to comply with Board orders and directives [are] unacceptable. The Board shall dismiss these three matters pursuant to Rule 31. To avoid such dismissals, the claimant shall provide to the Board and Government counsel, so as to be received no later than Friday, April 1, 2006, an explanation of good cause that would excuse the claimant’s failure to comply with each Board order and directive, as well as the previously requested information that would be necessary to establish the jurisdiction or authority of this Board to proceed with each or any of the three matters.

(Order, Mar. 23, 2006.)

The claimant did not comply with the order.

On April 7, 2006, the Board received from the Government a motion to dismiss these cases. The Government notes that the claimant has failed to comply with the Board orders. Similar to the Board, the Government also had not received information from the claimant that addressed Board jurisdiction or authority. Thereafter, also on April 7, the claimant filed and served a statement:

Attached is information that was faxed previously on March 22, 2006, but may have reached the wrong office. Information was faxed to the Board of Contract Appeals. Please see attached all invoices with corresponding information that are unpaid by USDA.

On April 5, 2006, [a named individual] of the USDA agreed to pay the \$2750 Beattie and Associates invoice. Payment is allegedly pending. Payment has not been received.

The submission does not indicate that a claim had been provided to a contracting officer or that a debarment or suspension action has occurred. The attachments do not comply with the Board orders. Without establishing good cause, the claimant has repeatedly failed to comply with Board orders. The burden is on the claimant to establish Board jurisdiction or authority. The claimant has not provided the fundamental information that would permit any of these cases to proceed.

DECISION

The Board dismisses these cases pursuant to Rule 31.

JOSEPH A. VERGILIO
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

CANDIDA S. STEEL
Administrative Judge

Issued at Washington, D.C.
May 2, 2006